

June 2008

Sussex County

D e l a w a r e

Comprehensive Plan Update





State of Delaware
Office of the Governor

Ruth Ann Minner
Governor

October 27, 2008

Mr. David Baker
Sussex County Administrator
Sussex County Administrative Office Building
P.O. Box 589
Georgetown, DE 19947

RE: Certification of Comprehensive Plan

Dear Mr. Baker:

After reviewing the recommendations of the Office of State Planning and the Governors Advisory Council on Planning Coordination, I have found that the adopted plan does meet the minimum criteria for certification as listed in Delaware Code and I hereby certify the Sussex County comprehensive plan provided the following recommendations are addressed:

1. Sussex County shall immediately begin working to adopt the 23 ordinances listed in the plan.
2. The County shall consider the newly adopted Pollution Control Strategies for the Inland Bays Watershed as you move forward with the implementation of your plan.
3. The County shall comply with Title 9, §6958 (c) of the Delaware Code which states that the County provide a written report to the Governors Advisory Council on Planning Coordination every 12 months on the status of the comprehensive plan and its implementation.

Certification of Comprehensive Plan
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4. Within 18 months of the date of adoption, the County shall amend its official zoning map(s) to rezone all lands in accordance with the uses and intensities of the uses provided in the future land use element for the County. In the event that the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the County, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.

Congratulations on your certification.

Sincerely,

A handwritten signature in black ink that reads "Ruth Ann Minner". The signature is written in a cursive style with a large initial "R".

Ruth Ann Minner
Governor

Sussex County Comprehensive Plan Update

Final Document

June 2008

**Urban Research & Development Corporation
Bethlehem, Pennsylvania**

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PREFACE

A Summary Overview of Sussex County's Growth and Preservation Strategy

Growth and Preservation Goals

Sussex County's is the fastest growing area in Delaware because of its popularity as a primary home and second home destination. The Delaware Population Consortium projects that the County's 2020 population will be 25% higher than its estimated July 2006 population of 180,275. According to demographic forecasts, almost all of this growth is likely to result from in-migration, as opposed to an increase in births over deaths among people who already live in the County today. Much of this in migration will continue to be in and around the coastal communities and nearby inland bays.

Sussex County government deals with growth and preservation issues on a daily basis. The County devotes extensive time, money and other resources to reviewing proposed developments, enforcing its land development regulations, planning infrastructure expansions, and coordinating with numerous public and private sector entities concerned with the future of the area. These ongoing experiences and the spirit of the State's Livable Delaware initiative are the basis for the following Sussex County future growth and preservation goals:

- Direct development to areas with or near community services
- Conserve the County's agricultural economy and the value of its farmland
- Protect critical natural resources
- Encourage tourism and other responsible job providers
- Expand affordable housing opportunities
- Ensure new developments incorporate usable open space and best design practices

This Comprehensive Plan identifies many different inter-related strategies for implementing the goals noted above. These include coordinated strategies for:

- Guiding growth
- Preserving the rural environment
- Conserving more open space
- Dealing with the impacts of growth

These strategies are designed to be implemented in concert with each other. They represent the component parts of Sussex County's coordinated approach to future growth and preservation.

Strategies For Guiding Growth (The Future Land Use Plan)

The Future Land Use Plan described in this Comprehensive Plan Update divides Sussex County into Growth Areas and Rural Areas.

Growth Areas

Sussex County’s primary Growth Areas will continue to be centered around its 25 municipalities. These Growth Areas are where allowable residential densities will remain highest and where most commerce will continue to be directed. These Growth Areas are where the State can anticipate demand will be highest for schools, emergency services, transportation improvements, economic development and related infrastructure. Sussex County determined its Growth Area boundaries based on current zoning and on State-certified comprehensive plans adopted by the County’s 25 incorporated municipalities. The County’s will continue to use its existing density bonuses program and develop new incentives such as a Transfer of Development Rights (TDR) program to direct as much of its growth as possible to these Growth Areas.

Growth Areas described in this Comprehensive Plan Update include the following subtypes in addition to incorporated municipalities:

- *Town Centers* - In these areas, medium to high density housing should be permitted ranging from 4 to 12 homes per acre. Compatible commerce should also be allowed. The County also hopes to adopt two additional incentives that will direct future growth to Town Centers:
 - An increase in maximum density from 4 units per acre to 6 units per acre for cluster developments locating in Town Center areas. This incentive would be available provided that: a) the applicant contributes additional open space fees commensurate with the density bonus received; and b) the applicant secures conditional use approval.
 - An increase in the maximum building height and an increase in permitted density to 12 units per acre for mixed use developments locating in Town Center Areas. This incentive would be available provided that: a) the applicant received certification under a County-adopted LEED-type program that rewards the use of green building techniques; and b) the applicant secures conditional use approval.
- *Developing Areas* - In these areas, base density should be 2 units per acre with the option to go to four units per acre under Sussex County’s Density Bonus Program. A wide variety of business uses should be allowed.
- *Environmentally Sensitive Growth Areas* - These are areas around the inland bays, where 2 units per acre should be the base density with the option to go to four units per acre using the Density Bonus/Open Space program noted above. Sussex County is now examining the following ways to provide extra protection for the water quality and ecology of the inland bays area:

- Establish a maximum allowable impervious surface regulation.
- Stipulate that no density can be “transferred in” under any future TDR program. Establish a separate but related TDR program that would govern TDRs where the sending and receiving tracts are each located within the Environmentally Sensitive Development Area.
- Tighten the definition of what land can count as required minimum open space.
- Delete wetland areas from the site acreage calculations used to determine density.
- In addition to these initiatives, Sussex County is working closely with the Center for Inland Bays initially on a trial basis to develop effective buffer incentives that will separate new development in Environmentally Sensitive Growth Areas from tidal wetlands, non-tidal wetlands and waterways. The current model now under discussion calls for:
 - a) Providing incentives, such as expedited County and State review where such buffers are proposed that are 80' to 150' wide and incorporate native vegetation; and
 - b) Providing these same incentives plus a certain density bonus where such buffers are proposed that are greater than 150' in width.

While specific final details may vary from these examples, the County hopes to soon adopt a buffer ordinance that directly incorporates these concepts.

- *Other Growth Area Subtypes* – These include Mixed Residential Areas, Highway Commercial Areas, and Planned Industrial Areas.

Rural Areas

This Comprehensive Plan Update calls for recognizing the following three types of Rural Areas:

- *Protected Lands* – These are lands “out of play” due to government ownership or easements that will keep the property in open space or farming.
- *Agricultural Preservation Districts* – This category includes land owners who have enrolled in a State Agricultural Preservation District, which is a prerequisite for selling farm development rights to the State. Sussex County is also considering establishing an Agricultural Zoning District. Applicable regulations contain provisions that permit residential development at only very low densities in exchange for regulations that make it easier to operate livestock, poultry and agricultural processing operations.
- *Low Density Areas* – This refers to property zoned AR-1, which is the majority of land in Sussex County. Current regulations allow single-family detached home on 2 units per acre if connected to central sewers or 2 units per acre with septic if authorized by the State.

Most of Sussex County’s farmland is in this area. The Sussex County Council is committed to preserving development rights in this area at densities permitted under current zoning. However, the County recognizes the fundamental value of maintaining its overall rural environment. In addition to considering the Agricultural Zoning concept noted above, Sussex County hopes to sustain its rural character by using the following strategies.

Strategies for Preserving the Rural Environment

- Develop a voluntary Transfer of Development Rights (TDR) program to augment the County’s Density Bonus Program described above. Under a TDR program, developers pay the owner of a tract located in a “sending area” to preserve that tract. In return, the developer is allowed to build more homes than otherwise permitted, provided the developer’s land is in a designated “receiving area”. All or almost all of the AR-1 zoning district would be a sending area, thereby helping to preserve rural character. A maximum would be set on how far apart the sending area and receiving area can be located to prevent a major density shift from west to east.
- Continue the County’s aggressive approach to funding farmland preservation easements. Sussex County has spent nearly \$2.1 million collaborating with the State to permanently protect 2,471 farmland acres. Sussex County was the first to participate in this farmland preservation program and has spent more funds on it than either of Delaware’s other two counties.
- Consider establishing a voluntary agricultural preservation district within which landowners would be permitted only very low development densities in exchange for protection in law against nuisance complaints related to farm operations.
- Sussex County committed itself by ordinance five years ago to donate, for open space preservation purposes, 10% of the amount by which Sussex County’s total net annual revenues exceed annual expenditures. These funds have become an important funding source for acquiring and preserving open space in the County.

Strategies For Conserving More Open Space

In concert with implementing its Future Land Use Plan and preserving its rural character, Sussex County is striving to preserve open space. The County will use fees that it collects from developers under the County’s density bonus program to buy and permanently preserve undeveloped lands. The County is advised on where to make these purchases by the Sussex County Land Trust, a non-profit group dedicated to establishing a future “Green Ribbon” network of interconnected trails and open lands.

The County has many regulations in place that help protecting sensitive natural areas and other open lands in new developments. Sussex County hopes to intensify its conservation efforts in the future by adopting the following additional regulations designed to conserve more open space.

- A non-tidal wetlands buffer ordinance.
- Stream setback regulation for the Inland Bays area and elsewhere.
- More “green” stormwater management regulations.
- Regulations to help protect wildlife habitat.
- A wellhead protection and excellent water recharge area ordinance.
- Regulations to help implement TMDL limits, which are State water quality objectives.
- In the Environmentally Sensitive Area, delete both tidal and non-tidal wetlands from density calculations.
- Building coverage regulations to promote on-site water recharge.
- Forested buffer requirements to better separate new residential subdivisions and adjacent farms.
- Requirements for residential developers to provide recreation facilities or trails.
- Strengthened ordinance definitions regarding what can count (and not count) as allowable open space in new developments.
- More incentives to promote environmentally-friendly green architecture, green site design, and green stormwater management techniques.
- Requirements for more street trees and more shade trees in parking lots.
- Buffer incentives that will separate new development in Environmentally Sensitive Growth Areas from tidal wetlands, non-tidal wetlands and waterways.

In addition to the above, in new developments, wetlands, streams, and other natural areas that are deeded to homeowners associations could be protected by a) an easement requiring maintenance of the area in its natural state, and b) demarcation of the area and small signs posted identifying this as a natural environmental area.

Strategies For Dealing with Growth Impacts

Sussex County is aware that strong local growth is likely to continue in the foreseeable future. The County recognizes that this growth has impacts on roads, demand for schools, wastewater treatment capabilities and other local infrastructure. The Future Land Use Plan included in this Comprehensive Plan Update was drafted to specifically coordinate with the existing and future service capabilities of each of the County’s 18 sewer planning areas.

Sussex County government has invested heavily in providing public services to its residents. For example, Sussex County recently invested \$16 million to expand its South Coastal Regional Wastewater Treatment Plant in Bethany Beach. Between 2002 and 2007 Sussex County built sewer facilities that replaced nearly 3,000 on-lot septic systems. Sewer projects now under construction or recently approved will replace over 4,600 septic systems. County wastewater service has expanded from less than 3,000 connections in 1978 to over 55,000 connections currently. This has provided a major improvement to efforts to preserve water quality in the Inland Bays.

Sussex County continues to plan for future infrastructure needs. The County's adopted 5-Year Capital Improvement Program describes sewer projects, more airport improvements, library upgrades and other infrastructure enhancements that Sussex County is committed to building. The following are additional initiatives the County is pursuing or evaluating as means of serving new residents and businesses:

- Use powers available under State law to limit private sewer service providers from operating within designated County sewer service areas.
- Continue expanding County sewer service, in a pre-planned manner according to officially adopted wastewater service area plans.
- Address traffic capacity on north-south routes while planning for a north-south limited access highway on existing or new alignments.
- Regarding east-west mobility, make interim improvements to major routes, study the feasibility of bypasses around towns and consider long run links between north-south limited access roads.
- Implement recommendations of the 1990 Evacuation Route Study and related plans.
- Establish a planning and information exchange process aimed at improving coordinated public transportation services, including bus, rail transit, ride sharing, bicycling and walking.
- Examine the County's obligation under federal air quality regulations that promote air quality credits to offset emissions from new transportation projects.
- Create special development districts to help fund improvements to offsite infrastructure, such as roads and intersections. County Council has voted to request that the State Legislature grant the necessary enabling legislation to Sussex County.
- Prepare sub-area plans for selected parts of the County. These sub-area plans would examine inter-related matters such as land use planning, environmental conservation, and road improvement needs. The following vicinities, among others, are being considered as potential locations for sub-area planning:

- Milton

- Bridgeville-Seaford/Blades-Laurel-Delmar
- Western Delmar
- Millville-Ocean View
- Greenwood

The above listed strategies for guiding growth, preserving the rural environment, conserving more open space and dealing with growth impacts are the major component parts of Sussex County's overall coordinated growth and preservation strategy.